

DEPARTMENT OF WORKFORCE DEVELOPMENT  
DIVISION OF WORKFORCE SOLUTIONS AND  
DIVISION OF UNEMPLOYMENT INSURANCE  
ADMINISTRATOR'S MEMO SERIES

NOTICE 01-04

ISSUE DATE: 03/15/2001  
DISPOSAL DATE: Ongoing

RE: FOOD STAMP ELECTRONIC  
BENEFIT TRANSFER (EBT)  
TRAFFICKING AND FRAUD

To: County Department of Human Services Directors  
County Department of Social Services Directors  
County Economic Support Managers/Supervisors/Lead Workers  
Tribal Chairpersons/Human Services/Economic Support Directors  
Area Administrators/Assistant Area Administrators

From:	Jennifer L. Noyes /s/ Administrator Division of Workforce Solutions	Bruce Hagen /s/ Administrator Division of Unemployment Insurance
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## BACKGROUND

The Department of Workforce Development (DWD) acting upon federal regulations US Code: Title 7, Section 2016 (I), Wisconsin Statutes 49.129, 1995 Wisconsin Act 368, and Administrative Rule DWD 14, has implemented a statewide Electronic Benefits Transfer (EBT) system for the distribution of food stamp (FS) benefits called Wisconsin QUEST. With the changes that the EBT system brings to the Food Stamp Program (FSP) it is necessary to address policies and procedures related to trafficking and fraudulent use of Wisconsin QUEST cards.

## OVERVIEW

DWD has developed an EBT client integrity agreement with the Midwest Regional Food and Nutrition Service (FNS) regarding the Wisconsin QUEST card method of issuance. This agreement is designed as a collaborative effort to address recipient EBT trafficking and fraudulent use. Under this agreement, FNS retains responsibility for all administrative actions related to retail stores, including investigation and disqualification of retail stores for trafficking. Trafficking means the buying or selling of coupons or other benefits for cash or consideration other than eligible food. (7 CFR 271.2).

DWD, in conjunction with county/tribal Income Maintenance (IM) agencies, retains responsibility for the administration of client participation in the FSP. This responsibility includes ensuring program integrity by addressing trafficking, fraudulent use and abuse of EBT (QUEST) cards by clients. The administrative responsibility includes imposing penalties on clients determined to have committed Intentional Program Violations (IPV's) in accordance with the FSP Regulations 7 CFR 273.16. Local agencies are responsible for the administration of IPV's for clients in the FSP.

The EBT transaction system records dates, times, locations, purchase amounts, account numbers, and benefit value for each QUEST card FS transaction. The EBT system also identifies questionable transactions at disqualified stores. These data may indicate the client is redeeming benefits illegally. This is an indication of a probable IPV. FS IPV disqualification regulations will apply to fraudulent QUEST card transactions.

## **IMPLEMENTATION**

Potential QUEST card client trafficking and fraudulent use information may be obtained from the following sources:

1. Unsolicited reports from the community.
2. Reports of suspected trafficking and fraudulent use from the state agency or local IM/tribal agency.
3. EBT computer reports identifying clients whose QUEST card purchase transactions are questionable. This source of questionable transaction data will originate from Division of Workforce Solutions (DWS) EBT staff. A printout will be produced to identify cardholders meeting the criteria for questionable EBT transactions. These criteria include, but are not limited to, the following:
  - Rapid consecutive transactions at the same stores on the same day (three or more transactions within a 30-minute period);
  - More than six transactions within a 24-hour period;
  - Multiple even dollar transactions; and
  - Individual transactions exceeding \$150 during the month at a non-supermarket store.
4. Clients referred from retailer fraud investigations conducted by FNS. This source will originate from FNS Midwest Regional Office (MWRO) and will include recipients whose individual transactions are used as evidence to disqualify a retailer for trafficking. The Wisconsin EBT Client Integrity Project Procedures designed as a collaborative effort to address recipient EBT trafficking and fraudulent use are attached.

### **A. FEDERAL ROLE**

FNS will continue to be the responsible party for all retailer investigations including high-risk identification and compliance buys.

The initial step in the process is disqualification of a retailer for trafficking by the FNS Madison field office. After review, FNS MWRO will send information and documentation to DWD/Public Assistance Fraud Section (PAFS).

## **B. STATE ROLE**

PAFS is responsible for coordinating and handling client EBT program violation referrals for allegations of trafficking. PAFS will also coordinate referrals to FNS related to retailer trafficking.

1. PAFS receives information and documentation from FNS about disqualified retailers trafficking EBT benefits and associated clients involved in probable IPV.
2. PAFS will forward the documentation to the local IM agency with the recommendation that the agency take appropriate action against the client for potential IPV.
3. PAFS will submit an annual status report on questionable QUEST card trafficking and fraudulent use to FNS.
4. PAFS will notify FNS of potential FS trafficking by retailers and clients in Wisconsin from DWD EBT system data or from other sources.
5. PAFS will work with the EBT staff to establish dummy EBT accounts and arrange for the issuance of cards for use in retailer investigations at the request of the United States Department of Agriculture (USDA) Office of Inspector General, the FNS Compliance Branch, and State law enforcement agencies (SLEB). The contact person is the SLEB coordinator, Charles Billings, at (608) 267-4573. PAFS will provide technical assistance and training on QUEST card trafficking and fraudulent use to local agency staff.

EBT staff will develop and operate a prototype software tool for analyzing transaction and other data to spot suspected cases of client EBT fraud. In addition, DWD will respond to FNS requests to disable a retailer's EBT participation pending an administrative disqualification process. The contact person is Tim Burnett at (608) 267-4573.

## **C. LOCAL AGENCY ROLE**

In the administration of the EBT QUEST program at the local level, administering agencies are to take the following action:

1. **CLIENT EDUCATION:** Prior to participation in the EBT QUEST card method of issuance in the FSP, the client should be educated regarding liability and penalties for trafficking and fraudulent use.
2. **REVIEW STATE REFERRALS:** The local agency will review all available data for

suspected trafficking or fraudulent use.

If the local agency determines that there is evidence to suspect reported misuse, local agency staff will contact the client and discuss the suspected misuse documentation.

The local agency will consider the nature of the report and any documentation to substantiate the suspected misuse. The local agency will document the client's response and obtain the client's signature attesting to the accuracy of the documentation.

3. **STATUS (IPV OR IHE) DETERMINATION:** If the trafficking or fraudulent use is due to client misunderstanding, inadvertent error, or lack of client training, the agency should take appropriate action to prevent any further misunderstanding or inadvertent error.

If the local agency determines that the information of trafficking or fraudulent use by the recipient may constitute a violation of FSP regulations or any State of Wisconsin law relating to the use of FS benefits, the local agency may refer the case to the state contracted fraud investigation service provider. The purpose of the fraud investigation is to determine if the conduct of the recipient regarding the trafficking or fraudulent use was done with knowledge and intent.

If the local agency determines that the evidence resulting from the fraud investigation constitutes a deliberate violation of FSP regulations or any State of Wisconsin law relating to the receipt and use of FS benefits, the local agency may refer the case to the District Attorney for prosecution.

4. **DISPOSITION/DISQUALIFICATION:** If the local agency determines that the facts of the case do not warrant criminal prosecution and the evidence resulting from the fraud investigation constitutes a deliberate violation of FSP regulations or any State of Wisconsin law relating to the receipt and use of FS benefits, the local agency may request an administrative disqualification hearing (ADH). The local agency will initiate the requirements for an ADH, as prescribed by federal regulation and department policy, to include the client's right to waive the ADH. Include in the allegation a statement that the client intentionally misused their QUEST card by the supporting evidence presented which is trafficking and/or fraud, an IPV. Include a summary of the evidence obtained.

If the local agency determines probable trafficking or fraudulent use of the QUEST card by anyone other than the recipient, which may constitute a violation of any State of Wisconsin law relating to the use of FS benefits, the local agency may refer the case to the local law enforcement agency for investigation. The fraud program under Wisconsin Statute 49.197(1m) relates to FSP recipients. The violation by anyone other than the recipient is covered under Wisconsin Statutes as FS Offenses and/or financial transaction card crimes.

The local agency will give proper notice to the individual and process the disqualification of the individual as an IPV as required by current state ADH policy. The Division of Hearings and Appeals (DHA) reviews all cases of suspected IPV

based on clear and convincing evidence presented by the local agency. The evidence will include a list of EBT account numbers for those clients whose transactions resulted in the retailer's disqualification. The MWRO will provide this information, in addition to a summary of facts leading to the retailer disqualification and links or association with the client EBT account number. This list will usually mirror the transactions cited in the charge letter. The burden of proof is placed only on the local agency. To establish a client IPV on the trafficking or fraudulent use of a QUEST card, there must be clear and convincing evidence showing what specific person actually misused the QUEST card.

Penalties for disqualification are:

- 1<sup>st</sup> offense - 12 months
- 2<sup>nd</sup> offense - 24 months
- 3<sup>rd</sup> offense - permanently

A disqualification in the FSP will have no impact on W-2 or Medicaid benefits.

#### 5. REPORTING POTENTIAL EBT TRAFFICKING.

Retailer: When a local agency has information that a FS retailer certified by FNS is engaged in trafficking or fraudulent use of FS benefits, it should contact FNS using the toll-free hotline [(800) 424-9121] with information identifying the retailer, names of witnesses, and any other relevant information it may have.

Client or other person(s): When the local agency has information that a FSP client or any other persons(s) is engaged in trafficking or fraudulent use of FS benefits, the local agency should forward this information in writing to PAFS. PAFS will coordinate with FNS to ensure that no further action will take place that will jeopardize an investigation that might be in progress by FNS.

- ☐ If no contact with a client or other person(s) by the local agency has yet occurred, no contact should be initiated.
- ☐ If contact has occurred by the local agency, further activity should cease until authorization from FNS is received.

### **D. TRAINING**

The state is planning to conduct regional training sessions during 2001. These sessions are to review and explain the trafficking and fraudulent use policies and procedures, and to provide local agencies with the opportunity to raise questions and concerns that they may have. Further training will be available on an as needed basis by request to PAFS.

### **E. REPORTING**

The state must annually report to FNS the status of all persons referred to the state by FNS for alleged trafficking and fraudulent use of FS benefits. To meet this reporting requirement, PAFS will obtain information from local agencies to meet the reporting requirements. Additional information regarding reporting will be forwarded to local agencies at a later date.

## **F.     TRAFFICKING & FRAUDULENT USE CLAIMS**

The local agency may establish claims on trafficking IPV benefits. Federal FS regulations 273.18(a)(ii) and 273.18(c)(2) authorize the establishment of claims against a household for the value of FS benefits when an IPV for trafficking is established. DWS is developing the necessary policies to implement this change. Local agencies will retain 15% of the amount of these claims that are recovered.

REGIONAL OFFICE CONTACT:     Area Administrators

CENTRAL OFFICE CONTACT:     Don Pedersen, DUI/PAFS Fraud Specialist  
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